

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number: 19504-008001
I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450. _____ Date of Deposit _____ Signature _____ Typed or Printed Name of Person Signing Certificate	Application Number 10/690,252	Filed October 20, 2003
	First Named Inventor Malkin et al.	
	Art Unit 2617	Examiner Manoharan, Muthuswamy Ganapathy
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a Notice of Appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record <u>59185</u> (Reg. No.)</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p> <p><input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.</p>		

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Malkin et al.	Art Unit	: 2617
Serial No.	: 10/690,252	Examiner	: Manoharan, Ganapathy
Filed	: October 20, 2003	Conf. No.	: 3426
Title	: INSERTION OF SOUND SEGMENTS INTO A VOICE CHANNEL OF A COMMUNICATION DEVICE		

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

A request for a review of identified matters on appeal is hereby submitted with the Notice of Appeal. Review of these identified matters by a panel of examiners is requested because the rejections of record are clearly not proper and are without basis, in view of a clear legal or factual deficiency in the rejections. All rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

Applicants respectfully traverse, and hereby ask the panel to review and reverse the rejections of the final Office Action, as the cited references do not disclose or suggest all of the features of the claims.

All of pending claims 1-12 and 17-20 stand rejected under 35 U.S.C. § 103(a) as being rendered obvious by Hollstrom et al. (U.S. Pub. No. 2001/0041588) in view of Hoisko et al. (U.S. Pub. No. 2002/0082007) and Kovales et al. (U.S. Patent No. 7,003,083) and further in view of Fisher (U.S. Patent No. 5,694,562) or Allport (U.S. Patent Publication No. 2002/0135619).

The claims generally concern inserting sound segments into a voice channel carrying a voice stream of a voice transmission communication device.

Referring to claim 1, none of the cited references, alone or in combination, describe or suggest the client controller which is structured and arranged to "load the catalog such that two or more sound trigger buttons on a handset become programmed to each correspond to a specific sound segment within the selected catalog, the two or more sound trigger buttons are adapted to be activated in response to a user input after a voice channel is established, each sound trigger button being configured to enable selection of a specific corresponding sound segment within the catalog loaded by the client controller for insertion into the voice channel responsive to sound

trigger button activation during an ongoing communication over the voice channel.”

Notably, the final Office Action only relies upon Fisher or Allport as allegedly describing or suggesting sound trigger buttons on a handset becoming programmed to each correspond to a specific sound segment within the selected catalog. *See* final Office Action, page 5. As such, applicants first reiterate how the other three references do not describe or suggest the claim language, and, thereafter, explain how Fischer and Allport each do not make up for the deficiencies of the other three references.

The final Office Action is Correct in not relying upon Hollstrom, Hoisko, or Kovals in Rejecting the Above Noted Claim Language

The primary reference, Hollstrom, is directed to a wireless phone that allows a user to listen to music. As shown in Figs. 1 and 5, Hollstrom teaches an accessory device 8 that is coupled to a phone 8 that may include a flash card for loading music. Hollstrom does not disclose the claimed catalogs or sound trigger buttons, as included in claim 1. This deficiency is understandable given the focus of Hollstrom on the problem of having to use separate devices for listening and communications, which is described most clearly in its background section. *See* Hollstrom, Paragraphs 1-23. Further, this difference of Hollstrom is acknowledged on page 3 of the final Office Action, and the final Office Action's reliance on other references.

Next, Hoisko teaches a method for a user to load music using affective states (e.g., mood). *See* Hoisko, Abstract. In Hoisko, music is rendered in the background of the message to give the called party an idea of the state of mind of the caller. *See* Id. For a call, suitable background music is specified in advance through use of an “affective state” or by means of an automatic state of mind recognizer, such as, an electromyogram sensor. *See* Hoisko, Paragraphs [0019] and [0021]. Hoisko's music is selected through use of the affective mood state or through manual selection by the music's name. *See* Hoisko, Figs. 3-6, and Paragraphs [0027]-[0031]. Specifically, paragraph [0027] of Hoisko states:

If several musical compositions are associated with the selected affective state, a system programmed in the menu functions chooses one of them. Naturally the user of the phone may also select the background music direct by the name 11a, 11b, . . . , 11n of the musical composition 10a, 10b, . . . , 10n whereby the selected musical composition is played as background music....

See Hoisko, Paragraph [0019]. Hoisko's selection of an affective state does not describe or suggest loading a catalog such that multiple sound trigger buttons become programmed as

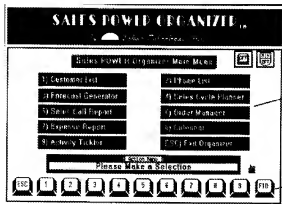
claimed. Rather, Hoisko describes manual selection, such as browsing “the menu using the phone's keypad and choose a suitable emotion or musical composition” or by selection of a song's name. *See* Hoisko, paragraphs [0017] and [0019]. The final Office Action acknowledges these shortcomings, stating “[t]he combinations of Hollstrom and Hoisko did not teach specifically multiple sound trigger buttons on a handset become programmed to each correspond to a specific sound segment within the selected catalog.” *See* final Office Action, page 5.

Finally, in Kovales, a user inserts background music in a voice mail system after receiving a specific prompt inviting input. *See* Kovales, Fig. 1. Kovales does not describe or suggest loading a catalog such that multiple sound trigger buttons become programmed as claimed. Rather Kovales teaches the use and transmission of files themselves. Moreover, the final Office Action does not rely on Kovales in rejecting the above noted claim language.

Neither Fisher nor Allport Describe or Suggest the Claimed Catalog or the Programming of Sound Trigger Buttons Therewith

In setting forth the rejection, the final Office Action states Fisher or Allport teaches “multiple sound trigger buttons on a handset become programmed to each correspond to a specific sound segment within the selected catalog.” *See* final Office Action, page 5.

Fischer is directed to “graphical user interfaces as presented on computer displays” and not to loading catalogs such that sound trigger buttons become programmed. *See* Fischer, column 1, lines 5-8. The cited portion of Fischer (reproduced below in its *entirety*) exemplifies Fischer's distinctions from claim 1 as it merely describes the use of icons in a computer display screen:



The present invention overcomes these drawbacks of the prior art by providing a graphical user interface in which the icons are depictions of physical keys on the keyboard, and in which the function invoked by each key icon is presented as part of the interface display. A user may invoke a function by pointing and clicking the key icon corresponding to that function, by touching the key icon on a touch screen, or by pressing the physical key depicted in that icon. In either case, the icon becomes animated to acknowledge invocation of the function.

See final Office Action page 5; Fischer, Fig. 2, column 2, lines 15-25. Nowhere does Fischer describe or suggest the existence or use of the claimed catalogs which include different

sound segments. Rather, and as shown above, Fisher is directed simply to the use of icons in a computer display screen. Moreover, as Fisher does not describe or suggest the use of catalogs as claimed, Fisher cannot describe or suggest loading “the selected catalog such that two or more sound trigger buttons on a handset become programmed to each correspond to a specific sound segment within the selected catalog.”¹

Turning to Allport, the reference is directed to “providing physical buttons (preferably programmable) on the devices, wherein the function of each button or button set is displayed on an associated display when said button or button set is activated using a display activation motion.” See Allport, paragraph [0019]. More specifically, Allport describes an advantage of its disclosure as allowing “users to ‘reclaim’ the display space taken up by labels 20 for the content information, whilst retaining the user’s ability to quickly see what each button 15 is used for if the user so desires.” See Allport, paragraph [0030]. The cited portion of Allport is reproduced below in its *entirety*:



[0016] A desirable method of overcoming the above-referenced drawbacks in the prior art is to provide physical buttons on the devices, that may be programmable, wherein a function of each button or combination of buttons (button set) is displayed on an associated display when said button or button set is activated using a display activation motion, and a function of the button or button set is executed when the button or button set is activated using an execution activation motion, different than the display activation motion. This would allow the display to be free of unnecessary icons, menus, text, etc., and to be devoted to actual content, unless and until a user has a need or desire to view information related to the function of a button associated with the device containing the display.

See final Office Action page 5; Allport, Fig. 1, paragraph [0016]. Similar to Fisher, nowhere does Allport describe or suggest the existence or use of the claimed catalogs which include different sound segments. Rather, Allport describes techniques for avoiding the

¹ Beyond these deficiencies, Fisher does not describe and the final Office Action does not address, the rest of the feature, which includes “...each sound trigger button being configured to enable selection of a specific corresponding sound segment within the catalog loaded by the client controller for insertion into the voice channel responsive to sound trigger button activation during an ongoing communication over the voice channel.”

requirement of devoting part of the display screen to the function of buttons. *See* Allport, Fig. 1, paragraph [0016]. Without describing or suggesting the use of catalogs as claimed, Allport cannot describe or suggest loading “the selected catalog such that two or more sound trigger buttons on a handset become programmed to each correspond to a specific sound segment within the selected catalog.”²

Consequently, none of Hollstrom, Hoisko, Kovales, Fisher, or Allport, individually or in combination, describe or suggest a client controller structured and arranged to “load the catalog such that two or more sound trigger buttons on a handset become programmed to each correspond to a specific sound segment within the selected catalog, the two or more sound trigger buttons are adapted to be activated in response to a user input after a voice channel is established, each sound trigger button being configured to enable selection of a specific corresponding sound segment within the catalog loaded by the client controller for insertion into the voice channel responsive to sound trigger button activation during an ongoing communication over the voice channel,” as recited in claim 1 (emphasis added).

For at least these reasons, applicants respectfully request reconsideration and withdrawal of the § 103(a) rejection of claim 1 and its dependent claims 2-4 and 17.³ Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 1/30/08

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² Allport also does not describe the unaddressed features of “...each sound trigger button being configured to enable selection of a specific corresponding sound segment within the catalog loaded by the client controller for insertion into the voice channel responsive to sound trigger button activation during an ongoing communication over the voice channel.”

³ Independent claims 5 and 9 recite similar limitations. Thus, the rest of the claims are allowable for similar reasons.